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December 9, 2005

Alva DeJarnett-Miller
Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, DC 20463

TELEPHONE
(304) 344-9100

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(304) 344-9105

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2005 DEC 15 A 11:16

Re: MUR 5664 -
Supplemental Information

Dear Ms. DeJarnett-Miller:

I am in receipt of Jeff Jordan's letter dated November 30, 2005 in the above-referenced matter along with the additional information submitted by Gerald McMillian. As you are aware, the Federal Election Commission granted my clients additional time to respond to the June 20, 2005 notice from the Federal Election Commission and I did submit a timely response to you dated July 20, 2005. I will briefly address Mr. McMillian's submission below.

If you review page four (4) of Mr. McMillian's November 16, 2005 supplemental statement you will find that there is no Notary Public stamp or seal on the document. Under West Virginia law a statement is not properly notarized without a stamp or seal. See West Virginia Code § 29-C-4-102. Accordingly, the statement should not be considered to be notarized and my clients once again deny Mr. McMillian's allegations.

Also, the International Union of Painters and Allied Trades (IUPAT) District Council 53 and Clarence Mitchell hereby provide the Federal Election Commission the following supplemental information:

1. additional original affidavits obtained after the July 20, 2005 submission (Abicht, Hackney, Hart, Kosky, Pennington, Poling, Rowland and Strobe);
2. August 1, 2005 Decision in West Virginia Unemployment case No.: R-2005-2265.

The Unemployment Decision is relevant because the issue involved was whether or not Mr. McMillian had a sufficient reason for resigning from IUPAT District Council 53 to justify his receipt of Unemployment Benefits. Under West Virginia law an employee that quits or resigns their job

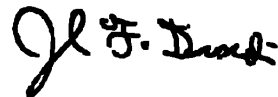
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Alva DeJarnett-Miller
Federal Election Commission
December 9, 2005
Page Two

cannot normally receive unemployment benefits unless they quit with good cause involving fault on the part of the employer. Please note that Mr. McMillian could have appealed the Unemployment Decision further but has chosen not to do so and it is now final. If the Commission would like to review a copy of the transcript in case No. R-2005-2265, please contact me and I will mail a copy to you. Also, should the Commission require any other information, please contact me and I will provide the same.

If you have any questions regarding this matter, please do not hesitate to contact me.

Respectfully,
THE SEGAL LAW FIRM



John F. Dascoli

JFD:mmmw
49070

cc: Clarence Mitchell

29044222551

**BEFORE THE FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL**

MUR 5664

AFFIDAVIT OF DENVER D. ABICHT

I, Denver D. Abicht, being first duly sworn under oath, depose and state to the best of my knowledge as follows:

1. I currently serve as Business Representative/Organizer for Local 93 of IUPAT District Council 53.
2. I answer directly to Assistant Business Manager Rick Hackney and Business Manager, Secretary-Treasurer Clarence Mitchell.
3. It was my understanding that if I wanted to attend any political rallies or participate in other political activities during the 2004 election campaign I had to do so on my own time. Also, any participation in political activities was purely voluntary.
4. Clarence Mitchell never told me that he would reject my weekly reports if I mentioned political activities on those reports.
5. I am paid a salary based on forty (40) hours per week times the journeyman rate. Clarence Mitchell told me that any political activities I wished to participate in had to be done outside of the normal forty (40) hours per week that I work for District Council 53.
6. I was not given a list of required political activities to attend but did receive information about upcoming political events from Dan Poling, District Council 53 Political Director.
7. Clarence Mitchell did not order any apprentices or apprenticeship staff to attend political events.
8. I was not required to participate in precinct walks (to register voters) organized by the AFL-CIO but I did participate in such walks during the evenings and weekends on a voluntary basis.
9. I was not required to assist in John Kerry mass mailings and I did not participate in any mailings.

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10. I was not required to paint Warren McGraw (candidate for West Virginia Supreme Court) signs at the District Council 53 office but I did voluntarily participate in painting the signs. Gerald McMillian actually volunteered the District Council 53 staff to participate in painting the Warren McGraw signs and it is my understanding that Gerald McMillian organized the whole activity. Various District Council 53 staff did not participate in painting the Warren McGraw signs and the ones that did participate did so voluntarily on their own time.

11. I have read Gerald McMillian's complaint filed in this matter and it is a personal vendetta and totally untrue.

And further Affiant saith not.

Denver D. Abicht

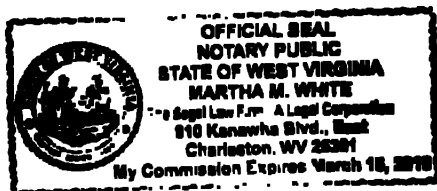
DENVER D. ABICHT

I, Martha M. White, a Notary Public for said county, do certify that Denver D. Abicht, who signed the writing above bearing the date of the _____ day of _____, 2005 has this day acknowledged the same before me in my said county.

Given under my hand this 5 day of August, 2005.

My commission expires March 15, 2010

Martha M. White



**BEFORE THE FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL**

MUR 5664

AFFIDAVIT OF RICHARD L. HACKNEY

I, Richard L. Hackney, being first duly sworn under oath, depose and state to the best of my knowledge as follows:

1. I have served as Assistant Business Manager of IUPAT District Council 53 since May of 2004.

2. During the 2004 national, state and local political campaigns I attended various political rallies. My attendance at political rallies was not part of my duties as Assistant Business Manager of District Council 53 and my attendance at the rallies was voluntary and done on my own time.

3. Like all staff members at District Council 53 I am paid on a salary basis. I am paid by the District Council based on fifty (50) hours a week and half of my salary is reimbursed by the District 53 Joint Apprenticeship Training Committee because I also serve as the Administrator of the Apprenticeship Program.

4. I was not provided a list of required political actives to attend. I did receive information on political activities from the District Council 53 Political Director Dan Poling, the West Virginia AFL-CIO, AFL-CIO, IUPAT and other organizations.

5. Each staff member is assigned a union vehicle. If the union vehicle is used for personal use, which could includes attending political events on one's own time, the staff member is supposed to log the use of the vehicle as "personal" or use his or her own vehicle.

6. As Director of the Apprenticeship Program I know that no person ordered apprentices or apprenticeship staff to attend political rallies in fact, I prevented apprenticeship staff member Homer Williamson, a good friend of Gerald McMillian, from attending a mid-day political rally in Beckley for John Kerry because Homer Williamson worked fixed hours and did not have the ability to make up work time had he attended a political rally on personal time.

7. Business Manager/Financial-Secretary Clarence Mitchell did not require me to participate in precinct walks to register voters. I did participate in precinct walks organized by the AFL-CIO on a voluntary basis and on my personal time. Again, my attendance was not required.

8. I was not required to by Clarence Mitchell to assist in John Kerry mass mailings.

9. I have read Gerald McMillian's complaint and it is false.

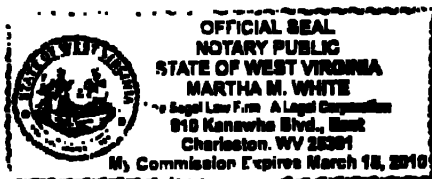
And further Affiant saith not.


RICHARD L. HACKNEY

I, Martha M. White, a Notary Public for said county, do certify that Richard L. Hackney, who signed the writing above bearing the date of the 5th day of August, 2005 has this day acknowledged the same before me in my said county.

Given under my hand this 5th day of August, 2005.

My commission expires March 15, 2010.




NOTARY PUBLIC

**BEFORE THE FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL**

MUR 5664

AFFIDAVIT OF TED L. HART, JR.

I, Ted L. Hart, Jr., being first duly sworn under oath, depose and state to the best of my knowledge as follows:

1. I currently serve as Business Representative for Local 438 of IUPAT District Council 53.

2. I answer directly to Assistant Business Manager Rick Hackney and Business Manager, Secretary-Treasurer Clarence Mitchell.

3. It was my understanding that if I wanted to attend any political rallies or participate in other political activities during the 2004 election campaign I had to do so on my own time. Also, any participation in political activities was purely voluntary.

4. Clarence Mitchell never told me that he would reject my weekly reports if I mentioned political activities on those reports.

5. I am paid a salary based on forty (40) hours per week times the journeyman rate. Clarence Mitchell told me that any political activities I wished to participate in had to be done outside of the normal forty (40) hours per week that I work for District Council 53.

6. I was not given a list of required political activities to attend but did receive information about upcoming political events from Dan Poling, District Council 53 Political Director. I was not required to attend any of those events.

7. Clarence Mitchell did not order any apprentices or apprenticeship staff to attend political events.

8. I was not required to participate in precinct walks (to register voters) organized by the AFL-CIO but I did participate in such walks during the evenings and weekends on a voluntary basis.

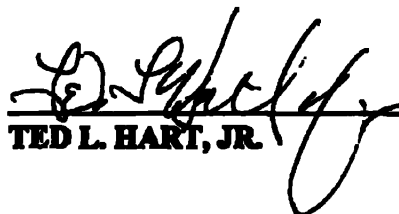
9. I was not required to assist in John Kerry mass mailings and I did not participate in any mailings.

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10. I was not required to paint Warren McGraw (candidate for West Virginia Supreme Court) signs at the District Council 53 office and I did not participate in painting the signs.

11. I have read Gerald McMillain's complaint filed in this matter and it is false.

And further Affiant saith not.

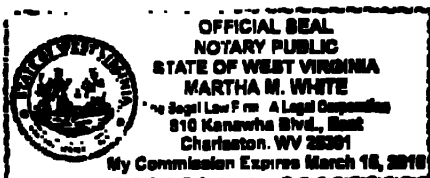

TED L. HART, JR.

I, Martha M. White, a Notary Public for said county, do certify that
Ted L. Hart, Jr., who signed the writing above bearing the date of the 5th day of
August, 2005 has this day acknowledged the same before me in my said county.

Given under my hand this 5th day of August, 2005.

My commission expires March 15, 2010.





**BEFORE THE FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL**

MUR 5664

AFFIDAVIT OF GARY L. KOSKY .

I, Gary L. Kosky, being first duly sworn under oath, depose and state to the best of my knowledge as follows:

1. I currently serve as Business Representative for Local 91 of IUPAT District Council 53.

2. I answer directly to Assistant Business Manager Rick Hackney and Business Manager, Secretary-Treasurer Clarence Mitchell.

3. It was my understanding that if I wanted to attend any political rallies or participate in other political activities during the 2004 election campaign I had to do so on my own time. Also, any participation in political activities was purely voluntary.

4. Clarence Mitchell never told me that he would reject my weekly reports if I mentioned political activities on those reports.

5. I am paid a salary based on forty (40) hours per week times the journeyman rate. Clarence Mitchell told me that any political activities I wished to participate in had to be done outside of the normal forty (40) hours per week that I work for District Council 53.

6. I was not given a list of required political activities to attend but did receive information about upcoming political events from Dan Poling, District Council 53 Political Director, and other sources. I understand that participation in any of the political events was voluntary.

7. It was my understanding that if I attended political events I was supposed to use my own vehicle. I think it would also be permissible to use the union vehicle and log any miles as "personal" if necessary. This is the same policy for any personal use of a union vehicle.

8. Clarence Mitchell did not order any apprentices or apprenticeship staff to attend political events.

9. I was not required to participate in precinct walks (to register voters) organized by the AFL-CIO or Upper Ohio Valley Building Trades but I did participate in such walks on Saturdays on a voluntary basis.

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10. I was not required to assist in John Kerry mass mailings but I did do so on a voluntary basis.

11. I was not required to paint Warren McGraw (candidate for West Virginia Supreme Court) signs at the District Council 53 office and I did not participate in painting the signs. Gerald McMillian actually volunteered the District Council 53 staff to participate in painting the Warren McGraw signs and it is my understanding that Gerald McMillian organized the whole activity. Various District Council 53 staff did not participate in painting the Warren McGraw signs and the ones that did participate did so voluntarily on their own time.

12. Gerald McMillian is upset with District Council 53 because they took his kingdom away.

13. I have read Gerald McMillian's complaint filed in this matter and it is false.

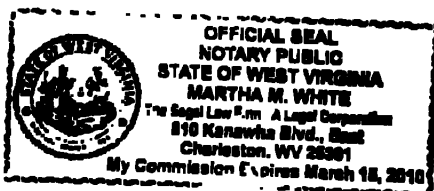
And further Affiant saith not.

Gary L. Kosky
GARY L. KOSKY

I, Martha M. White, a Notary Public for said county, do certify that Gary L. Kosky, who signed the writing above bearing the date of the 5th day of August, 2005 has this day acknowledged the same before me in my said county.

Given under my hand this 5th day of August, 2005.

My commission expires March 15, 2010.



Martha M. White

**BEFORE THE FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL**

MUR 5664

AFFIDAVIT OF MICHAEL R. PENNINGTON

I, Michael R. Pennington, being first duly sworn under oath, depose and state to the best of my knowledge as follows:

1. I currently serve as Business Representative for Local 1072 of IUPAT District Council 53.

2. I answer directly to Assistant Business Manager Rick Hackney and Business Manager, Secretary-Treasurer Clarence Mitchell.

3. It was my understanding that if I wanted to attend any political rallies or participate in other political activities during the 2004 election campaign I had to do so on my own time. Also, any participation in political activities was strictly voluntary on my part.

4. Clarence Mitchell never told me that he would reject my weekly reports if I mentioned political activities on those reports.

5. I am paid a salary based on forty (40) hours per week times the journeyman rate. Clarence Mitchell told me that any political activities I volunteered to participate in had to be done outside of the normal forty (40) hours per week that I work for District Council 53.

6. I was not given a list of required political activities to attend but did receive information about upcoming political events from Dan Poling, District Council 53 Political Director, and other sources.

7. It was my understanding that if I attended political events I was supposed to use my own vehicle as much as possible. I think it would also be permissible to use the union vehicle and log any miles as "personal" if necessary. This is the same policy for any personal use of a union vehicle.

8. Clarence Mitchell did not order any apprentices or apprenticeship staff to attend political events. In fact, former apprenticeship staff member Homer Williamson, a good friend of Gerald McMillian, was not happy about not being able to go to a John Kerry rally in Beckley.

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9. I was not required to participate in precinct walks (to register voters) organized by the AFL-CIO but I did participate in such walks during the evenings and weekends on a voluntary basis.

10. I was not required to assist in John Kerry mass mailings and I did not participate in any mailings.

11. I was not required to paint Warren McGraw (candidate for West Virginia Supreme Court) signs at the District Council 53 office and I did not participate in painting the signs.

12. I was never ordered or forced to do anything political. Dan Poling gave us information and we used it as we saw fit.

13. I have read Gerald McMillain's complaint filed in this matter and it is false.

And further Affiant saith not.

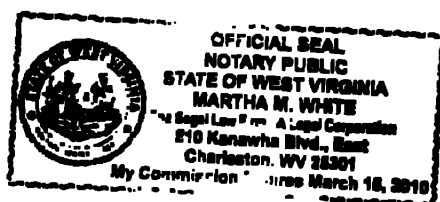
Michael R. Pennington
MICHAEL R. PENNINGTON

I, Martha M. White, a Notary Public for said county, do certify that Michael R. Pennington, who signed the writing above bearing the date of the 5th day of August, 2005 has this day acknowledged the same before me in my said county.

Given under my hand this 5th day of August, 2005.

My commission expires March 15, 2010.

Martha M. White



**BEFORE THE FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL**

MUR 5664

AFFIDAVIT OF DANIEL J. POLING

I, Daniel J. Poling, being first duly sworn under oath, depose and state to the best of my knowledge as follows:

1. I currently serve as Business Representative for Local 1144 of IUPAT District Council 53. I also serve as Political Director of District Council 53.

2. I answer directly to Assistant Business Manager Rick Hackney and Business Manager, Secretary-Treasurer Clarence Mitchell.

3. It was my understanding that if I wanted to attend any political rallies or participate in other political activities during the 2004 election campaign I had to do so on my own time. Also, any participation in political activities was purely voluntary.

4. Clarence Mitchell never told me that he would reject my weekly reports if I mentioned political activities on those reports.

5. I am paid a salary based on forty (40) hours per week times the journeyman rate. Clarence Mitchell told me that any political activities I wished to participate in had to be done outside of the normal forty (40) hours per week that I work for District Council 53.

6. I did not provide District Council 53 staff a list of required political activities to attend but did provide them any information I received about upcoming political events.

7. It was my understanding that if I attended political events I was supposed to use my own vehicle. I think it would also be permissible to use the union vehicle and log any miles as "personal" if necessary. This is the same policy for any personal use of a union vehicle.

8. Clarence Mitchell did not order any apprentices or apprenticeship staff to attend political events.

9. I was not required to participate in precinct walks (to register voters) organized by the AFL-CIO but I did participate in such walks during the evenings and weekends on a voluntary basis.

10. I was not required to assist in John Kerry mass mailings and I did not participate in any mailings.

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11. I was not required to paint Warren McGraw (candidate for West Virginia Supreme Court) signs at the District Council 53 office but I did voluntarily participate in painting the signs. Gerald McMillian actually volunteered the District Council 53 staff to participate in painting the Warren McGraw signs and it is my understanding that Gerald McMillian organized the whole activity. Various District Council 53 staff did not participate in painting the Warren McGraw signs and the ones that did participate did so voluntarily on their own time.

12. I have read Gerald McMillain's complaint filed in this matter and it is false.

And further Affiant saith not.

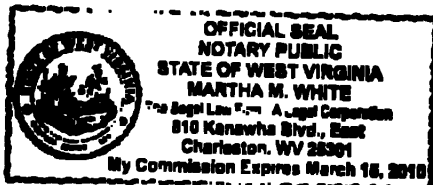
Daniel J. Poling
DANIEL J. POLING

I, Martha M. White, a Notary Public for said county, do certify that Daniel J. Poling, who signed the writing above bearing the date of the 3rd day of August, 2005 has this day acknowledged the same before me in my said county.

Given under my hand this 3rd day of August, 2005.

My commission expires March 15, 2010.

Martha M. White



**BEFORE THE FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL**

MUR 5664

AFFIDAVIT OF DANNY L. ROWLAND

I, Danny L. Rowland, being first duly sworn under oath, depose and state to the best of my knowledge as follows:

1. I serve as Business Representative for Glaziers Local 1195 of TUPAT District Council 53.

2. I report to Assistant Manager Rick Hackney and Business Manager, Secretary-Treasurer Clarence Mitchell.

3. District Council 53 did not require me to attend political rallies as part of my job duties. Any political activities I participated in were purely voluntary.

4. Neither Clarence Mitchell nor Rick Hackney instructed me that my weekly reports would be rejected if they listed political activities on them. However, I understood that any political activities were to be done on my own time and not during my normal work time.

5. I am paid on a salary basis by District Council 53 based on forty (40) hours per week times the journeyman rate. Any political activities I voluntarily participated in had to be done outside of my normal forty (40) hours per week of work for District Council 53.

6. I was not given a list of required political activities to attend but was provided information of political events by District 53 political director Dan Poling.

7. It was my understanding that if you attended political activities on your own time you either had to use your personal vehicle or if you used your union vehicle you had to log the miles as "personal."

8. To my knowledge nobody ordered apprenticeship staff or apprentices to attend political rallies.

9. I was not required to participate in precinct walks register voters or to assist in John Kerry mass mailings.

10. I was not ordered to paint McGraw (West Virginia Supreme Court candidate) signs at the District Council 53 office.

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11. Clarence Mitchell never told District Council 53 staff members to stuff union vehicles with black and gold t-shirts to attend political rallies.

12. I have read the complaint filed by Gerald McMillian and the complaint is not true.

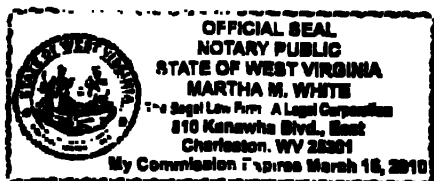
And further Affiant saith not.

Danny L. Rowland
DANNY L. ROWLAND

I, Martha M. White, a Notary Public for said county, do certify that Danny L. Rowland, who signed the writing above bearing the date of the 5th day of August, 2005 has this day acknowledged the same before me in my said county.

Given under my hand this 5th day of August, 2005.

My commission expires March 15, 2010.



Martha M. White

**BEFORE THE FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL**

MUR 5664

AFFIDAVIT OF GARY W. STROPE

I, Gary W. Strobe, being first duly sworn under oath, depose and state to the best of my knowledge as follows:


1. I currently serve as Business Representative for Local 804 of IUPAT District Council 53.
2. I answer directly to Assistant Business Manager Rick Hackney and Business Manager, Secretary-Treasurer Clarence Mitchell.
3. It was my understanding that if I wanted to attend any political rallies or participate in other political activities during the 2004 election campaign I had to do so on my own time. Also, any participation in political activities was purely voluntary.
4. Clarence Mitchell never told me that he would reject my weekly reports if I mentioned political activities on those reports.
5. I am paid a salary based on forty (40) hours per week times the journeyman rate. Clarence Mitchell told me that any political activities I wished to participate in had to be done outside of the normal forty (40) hours per week that I work for District Council 53.
6. I was not provided any lists of suggested political activities to attend.
7. Clarence Mitchell did not order any apprentices or apprenticeship staff to attend political events.
8. I was not required to participate in precinct walks (to register voters) organized by the AFL-CIO but I did participate in two (2) walks during the evenings and weekends on a voluntary basis.
9. I was not required to assist in John Kerry mass mailings but I did do so on a voluntary basis.
10. I was not required to paint Warren McGraw (candidate for West Virginia Supreme Court) signs at the District Council 53 office but I did voluntarily participate in painting the signs. Gerald McMillian actually volunteered the District Council 53 staff to participate in painting the

29044222566

Warren McGraw signs and it is my understanding that Gerald McMillian organized the whole activity. Various District Council 53 staff did not participate in painting the Warren McGraw signs and the ones that did participate did so voluntarily on their own time.

11. I have read Gerald McMillain's complaint filed in this matter and it is false.

And further Affiant saith not.


GARY W STROPE

I, Martha M. White, a Notary Public for said county, do certify that Gary W. Strope, who signed the writing above bearing the date of the 5th day of August, 2005 has this day acknowledged the same before me in my said county.

Given under my hand this 5th day of August, 2005.

My commission expires March 15, 2010.



